REMARKS

Claims 1-3, 5-9, 11-13, 15-19, 21-23, 25-29 are all the claims pending in the application.

In this Amendment, Applicant amends claims 1, 3, 11, 13, 21 and 23 and cancels claims 4, 14

and 24 without prejudice or disclaimer. No new matter is added.

Claim rejection under 35 U.S.C. § 103

Claims 1, 4-6, 11, 14-16, 21 and 24-26 are rejected under 35 U.S.C. § 103(a) as allegedly

being unpatentable over Aweya et al. (U.S. Patent 6,690,645; hereinafter "Aweya") in view of

Sisto (U.S. Publication No. 2008/0212965; hereinafter "Sisto").

Claims 2, 7-9, 12, 17-19, 22 and 27-29 are rejected under 35 U.S.C. § 103(a) as allegedly

being unpatentable over Aweya in view of Sillasto et al. (U.S. Publication No. 2005/0063304;

hereinafter "Sillasto").

Claims 3-9, 13-29 and 23-29 are rejected under 35 U.S.C. § 103(a) as being unpatentable

over Aweya and Sisto in view of Sillasto.

Applicant traverses the rejection for at least the following reasons.

<u>Claim 1</u>

Without conceding to the merits of the rejection, Applicant amends claim 1 to recite,

inter alia, "<u>a step of setting a plurality of thresholds for an empty data amount</u>; a step of

calculating a receivable amount so that the receivable amount comprises smaller than the empty

data amount being calculated from the data amount <u>by using a plurality of functions each of</u>

<u>which are set for respective ranges of said plurality of thresholds</u>."

In column 10, lines 53-column 11, line 13, Aweya discloses "[t]hus the inter-drop/mark value generator 25 generates as a function of the drop/mark probability value $p_d(n)$ and an inter-drop mark value $D_r(n)$ representing a number of packets 18…" Here, Aweya discloses that the inter-drop/mark value generator 25 calculates an inter drop/mark value $D_1(n)$ indicating the number of packets from Drop/mark probability value $p_d(n)$ by using a function described in column 10, line 60.

However, Aweya does not teach or suggest the feature of "setting a plurality of thresholds for the empty data amount, and calculating a receivable amount so that the receivable amount comprises smaller than empty data amount being calculated from the data amount by using a **plurality** of functions **each of which are set for respective ranges** of said plurality of thresholds." (the feature of amended claim 1).

According to the claimed features, a suitable receivable amount is determined within the **range of each threshold** by using the individual function according to the range of each threshold. In contrast, in Aweya, only discloses one function for calculating an inter-drop mark value $D^1(n)$ from Drop/mark probability value $p_d(n)$, which further doe not depend on the empty amount of data, as recited in claim 1. Therefore, Aweya does not teach or suggest "setting a plurality of thresholds for the empty data amount, and calculating a receivable amount so that the receivable amount comprises smaller than empty data amount being calculated from the data amount by using a plurality of functions each of which are set for respective ranges of said plurality of thresholds,"

The other cited references also do not teach or suggest these features of claim 1.

In view of the above, Applicant respectfully submits that claim 1 is patentable over the cited combination of references.

Claims 11 and 21

Applicant respectfully submits that claims 11 and 21 recite features analogous to claim 1, and therefore are patentable for at least the same reasons discussed above with regard to claim 1.

Claim 2

Claim 2 recites, *inter alia*, "a step of measuring time while a data storing unit is empty; a step of judging whether a transmission amount is reduced or not, based on the time and a network situation relating to throughput for a data transmission, and a step of determining a transmissive amount based on the judgment." In the Final Office Action, the Examiner cites column 2, lines 49-53, column 6, lines 48-62 and column 5, lines 4-67 of Aweya for allegedly disclosing the above recited features of claim 2. Applicant respectfully submits that Aweya and Sillasto do not teach or suggest these features of claim 2 for at least the following reasons.

In column 2, lines 49-33, Aweya discloses that the relaying apparatus calculates a drop/mark probability value, but does not teach or suggest the amount of the packet (data) transmitted from the relaying apparatus. However, the drop/mark probability value does not teach or suggest the claims transmissive amount. Moreover, in column 5, lines 4-67, the amount of data which the relaying apparatus transmits (i.e., "transmission amount") is not described at all. Other portions of Aweya and Sillasto also do not teach or suggest "judging whether a transmission amount is **reduced or not**, based on the time and a network situation relating to

throughput for a data transmission," and "determining a transmissive amount based on the

judgment."

In particular, in column 5, lines 4-67, Aweya merely discloses that a drop/mark

probability generator 24 and controller 26 that cooperate to direct the queue interface 20 to either

admit, discard or mark a packet 10 arriving at the queue 20 to cause the queue occupancy level Q

to converge toward the desired queue occupancy level T. Here, Aweya merely discloses

admitting, discarding or marking packets that arrive at a queue. However, this does not teach or

suggest judging whether a transmission amount is reduced or not, based on the time and a

network situation relating to throughput for a data transmission. Moreover, Aweya does not

teach or suggest "determining a **transmissive amount** based on the judgment."

In view of the above, Applicant respectfully submits that claim 2 is patentable over the cited

combination of Aweya and Sillasto.

Claims 12 and 22

Applicant respectfully submits that claims 12 and 22 recite features analogous to claim 2,

and therefore are patentable for at least the same reasons discussed above with regard to claim 2.

Claim 3, 13 and 23

To the extent claims 3, 13 and 23 recite features analogous to claims 1 and 2, claims 3, 13 and

23 are patentable for at least the same reasons discussed above with regard to claims 1 and 2.

Claims 5-9, 15-19 and 25-29

Claims 5-9, 15-19 and 25-29 are the dependent claims of one of claims 1-3, 11-13 and 21-23,

and therefore it is believed that claims 5-9, 15-19 and 25-29 are patentable at least by virtue of their

dependency and the additional features recited therein.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed

to be in order, and such actions are hereby solicited. If any points remain in issue which the

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is

kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue

Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any

overpayments to said Deposit Account.

Respectfully submitted,

/Ebenesar D. Thomas/

SUGHRUE MION, PLLC   Ebenesar D. Thomas
Telephone: (202) 293-7060   Registration No. 62,499
Facsimile: (202) 293-7860

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